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UNITED STATES DISTRICT COURT

DISTRICT OF NEVADA

ORACLE USA, INC., a Colorado corporation;  
 ORACLE AMERICA, INC., a Delaware  
 corporation; and ORACLE INTERNATIONAL  
 CORPORATION, a California corporation,

Plaintiffs,

v.

RIMINI STREET, INC., a Nevada corporation;  
 SETH RAVIN, an individual,

Defendants.

Case No 2:10-cv-0106-LRH-VCF

**ORACLE'S MOTION TO SEAL  
 PORTIONS OF ORACLE'S MOTION  
 FOR ATTORNEYS' FEES ON  
 APPEAL, DECLARATIONS OF JOHN  
 A. POLITO, KATHLEEN R.  
 HARTNETT, PAUL D. CLEMENT,  
 JAMES C. MAROULIS, AND  
 CERTAIN ACCOMPANYING  
 EXHIBITS**

Pursuant to the Stipulated Protective Order governing confidentiality of documents entered by the Court on May 21, 2010, ECF No. 55 (“Protective Order”), and Rules 5.2 and 26(c) of the Federal Rules of Civil Procedure, Plaintiffs Oracle USA, Inc., Oracle America, Inc., and Oracle International Corporation (collectively “Oracle”) respectfully request that the Court order the Clerk of the Court to file under seal certain portions of (1) Oracle’s Motion for Attorneys’ Fees on Appeal, (2) the Declarations of John A. Polito (“Polito Declaration”), Kathleen R. Hartnett (“Hartnett Declaration”), Paul D. Clement (“Clement Declaration”), and James C. Maroulis (“Maroulis Declaration”), as well as Exhibits 1-2 to the Polito, Hartnett, and Clement Declarations in their entirety. These portions of Oracle’s Motion reflect information that Oracle has designated “Confidential” or “Highly Confidential - Attorneys’ Eyes Only” under the Protective Order. Public, redacted versions of Oracle’s Motion, Polito Declaration, Hartnett Declaration, Clement Declaration, and Maroulis Declaration, were filed on September 20, 2019, *see* ECF Nos. 1265, 1266, 1267, 1268, and 1269. Versions of these documents without redactions will be subsequently filed under seal with the Court and linked to the filing of this Motion. “[G]ood cause’ suffices to warrant preserving the secrecy of sealed discovery material attached to nondispositive motions.” *Foltz v. State Farm Mut. Auto. Ins. Co.*, 331 F.3d 1122, 1135 (9th Cir. 2003).

The Protective Order states, “Counsel for any Designating Party may designate any Discovery Material as ‘Confidential Information’ or ‘Highly Confidential Information – Attorneys’ Eyes Only’ under the terms of this Protective Order *only if such counsel in good faith believes that such Discovery Material contains such information and is subject to protection under Federal Rule of Civil Procedure 26(c)*. The designation by any Designating Party of any Discovery Material as ‘Confidential Information’ or ‘Highly Confidential Information – Attorneys’ Eyes Only’ shall constitute a representation that an attorney for the Designating Party reasonably believes there is a valid basis for such designation.” Protective Order ¶ 2 (emphasis supplied).

**DOCUMENTS DESIGNATED BY ORACLE AS CONFIDENTIAL**

Oracle has designated Exhibits 1-2 to the Polito Declaration, Exhibits 1-2 to the Hartnett Declaration, and Exhibits 1-2 to the Clement Declaration, as well as certain portions of Oracle's the Polito, Hartnett, Clement, and Maroulis Declarations as Confidential. Oracle requests that the Court order the Clerk of the Court to file those exhibits and portions under seal, as well as certain portions of Oracle's Motion for Attorneys' Fees on Appeal that reflect the information contained in the aforementioned exhibits.

The "Confidential" designation indicates that, in Oracle's best judgment, the documents contains "non-public information or matter related to: financial or business plans or projections; . . . current or future business and marketing information, plans, and strategies; studies or analyses by internal or outside experts; customer information, data or lists; . . . competitive analyses; . . . or other commercially or personally sensitive or proprietary information." Protective Order ¶ 3. In particular, portions of Oracle's Motion for Attorneys' Fees on Appeal; the Polito, Hartnett, Clement, and Maroulis Declarations, and the accompanying respective Exhibits 1-2, contain confidential competitive information of negotiated billing rates between Oracle and its attorneys, and sensitive, case-specific pricing information. Further, the documents reveal the details of Oracle's relationships with these companies, and the terms of their agreements, which are also negotiated. These negotiated billing rates and agreement terms are commercially sensitive and should not be publically disclosed insofar as any such disclosure would create a competitive disadvantage. *Apple Inc. v. Samsung Electronics Co., Ltd.*, 727 F.3d 1214, 1221 (Fed. Cir. 2013) ("One factor that weighs in favor of sealing documents is when the release of the documents will cause competitive harm to a business.")

Disclosure of this confidential information could interfere with Oracle's current or future business relationships or plans. Thus, there is a compelling interest for this information to be sealed. Oracle has submitted all other portions of Oracle's Motion for Attorneys' Fees on Appeal, the declaration of John A. Polito and Exhibits 3-5 thereto, and the declarations of Kathleen R. Hartnett, Paul D. Clement, and James C. Maroulis, to the Court's public files, which

1 allow public access to all materials except for the items discussed above. Accordingly, the  
2 request to seal is narrowly tailored.

3 For the foregoing reasons, Oracle respectfully requests that the Court grant leave to file  
4 under seal the documents discussed above.

5  
6 DATED: September 20, 2019

MORGAN, LEWIS & BOCKIUS LLP

7 By: /s/ John A. Polito  
8 John A. Polito  
9 Attorneys for Plaintiffs  
10 Oracle USA, Inc., Oracle America, Inc.,  
11 and Oracle International Corp.  
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**CERTIFICATE OF SERVICE**

I hereby certify that on the 20th day of September 2019, I electronically transmitted the foregoing **ORACLE’S MOTION TO SEAL PORTIONS OF ORACLE’S MOTION FOR ATTORNEYS’ FEES ON APPEAL, DECLARATIONS OF JOHN A. POLITO, KATHLEEN R. HARTNETT, PAUL D. CLEMENT, JAMES C. MAROULIS, AND CERTAIN ACCOMPANYING EXHIBITS** to the Clerk’s Office using the CM/ECF System for filing and transmittal of a Notice of Electronic Filing to all counsel in this matter; all counsel being registered to receive Electronic Filing.

Dated: September 20, 2019

Morgan, Lewis & Bockius LLP

By: /s/ John A. Polito  
John A. Polito

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UNITED STATES DISTRICT COURT

DISTRICT OF NEVADA

ORACLE USA, INC.; a Colorado corporation;  
 ORACLE AMERICA, INC.; a Delaware  
 corporation; and ORACLE INTERNATIONAL  
 CORPORATION, a California corporation,

Plaintiffs,

v.

RIMINI STREET, INC., a Nevada corporation;  
 and SETH RAVIN, an individual,

Defendants.

**Case No. 2:10-cv-0106-LRH-VCF**

**[PROPOSED] ORDER GRANTING  
 ORACLE'S MOTION TO SEAL  
 PORTIONS OF ORACLE'S  
 MOTION FOR ATTORNEYS'  
 FEES ON APPEAL,  
 DECLARATION OF JOHN A.  
 POLITO, KATHLEEN R.  
 HARTNETT, PAUL D. CLEMENT,  
 JAMES C. MAROULIS, AND  
 CERTAIN ACCOMPANYING  
 EXHIBITS**

**[PROPOSED] ORDER**

Pending before this Court is Plaintiffs Oracle USA, Inc., Oracle America, Inc., and Oracle International Corporation's (collectively "Oracle") Motion to Seal Portions of Oracle's Motion for Attorneys' Fees on Appeal ("Motion"), the Declarations of John A. Polito ("Polito Declaration"), Kathleen R. Hartnett ("Hartnett Declaration"), Paul D. Clement ("Clement Declaration"), James C. Maroulis ("Maroulis Declaration"), and certain accompanying exhibits. See ECF Nos. 1265, 1266, 1267, 1268, and 1269. Federal Rule of Civil Procedure 26(c) provides broad discretion for a trial court to permit sealing of court documents for, inter alia, the protection of "a trade secret or other confidential research, development, or commercial information." Fed. R. Civ. P. 26(c). Having considered Oracle's Motion to Seal, and good cause existing:

IT IS HEREBY ORDERED THAT Oracle's Motion to Seal is GRANTED. The Clerk of the Court shall file under seal portions of Oracle's Motion, Polito Declaration, Hartnett Declaration, Clement Declaration, and Maroulis Declaration, and Exhibits 1-2 to the Polito, Hartnett, and Clement Declarations in their entirety.

IT IS SO ORDERED.

DATED: \_\_\_\_\_

\_\_\_\_\_  
Hon. Larry R. Hicks  
United States District Judge